

Judicial Opinion

George Grimm

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bench have led to settlement of cases which would have lasted a week or more. It is my opinion that this practice should be encouraged by the trial judges.

* * *

HONORABLE GEORGE GRIMM, JUDGE TWELFTH
JUDICIAL CIRCUIT

As a common thing, when a case is reached, I ask counsel whether they believe the case can be adjusted without a trial, whether any overtures looking to that end have been made by either party, and whether they are willing to talk over the matter with me. Affirmative answer is always made, at least to the last of these questions. Leaving the court room in charge of a bailiff, who understands that he is to maintain order, counsel and I retire to my chambers, where a full statement of the contentions and viewpoints of both parties is elicited from counsel. After that, I am usually able to make suggestions as to what looks to me to be the fair thing to do. It may require modification and much discussion, but if there is any merit at all in the case, a tentative agreement is nearly always reached which is then submitted to and urged upon the clients for acceptance, by their counsel. In a large majority of instances it is at once favorably received, but sometimes I am requested by client or his counsel to satisfy the client's mind as to the fairness or expediency of the proposed settlement.

In no case must the slightest suspicion of coercion on part of the court or judge enter into the negotiation; and unless the trial judge is sure of the complete confidence of his bar that in case a settlement is not reached he can and will be strictly impartial in his decision if the case has to go to trial, he had best keep his hands off altogether—for he will only create more bad blood instead of good will.

If the trial judge looks upon himself as a kind of "super-man," too exalted to delve sympathetically into the passions and heartburns of "the common people," or, if he doubts his own ability to remain uninfluenced by a failure of his efforts to secure a settlement, then he had best not "mix in," but go on and try his cases. But if he feels the impulsion of a common brotherhood toward the lowliest, and his conscious desire is to be good, to help, to make peace and re-establish friendly relations, you may rest assured that he sacrifices naught of true dignity by helping

to find a basis for mutual understanding or urging both parties to do that which justice demands, even if thereby one or the other relinquishes some right secured to him by the strict letter of the law.

Great patience on the part of the judge is sometimes required because of existing bitterness between the parties, and many times one can try a case more quickly than he can get the parties together; but what a satisfaction it is when angry passions have been finally wiped out and litigants cease to be litigants and depart as friends! If this be sacrificing "dignity," then I am willing to sacrifice some of it—yea, all of it—and be happy instead because of the good that has been accomplished.

"Do attorneys complain that the judge is improperly interfering?" My answer is that I have not found it so. On the contrary, I am continually solicited by the attorneys of both contestants to help bring about a settlement, and I am not infrequently asked by agreement of counsel to try cases outside of my circuit for the avowed reason that they expect me to bring about a just settlement.

Let me add in conclusion that proper settlements are not "compromises" in the offensive sense of the latter term; they are rather the securement of true rights which equity requires. It must be remembered that few lawsuits brought are wholly without merit, but that it is equally true that in but few instances is either side wholly in the right and the other wholly wrong. A judicial determination of disputed questions under legal rules rarely works exact justice, one side usually getting more and the other less than equity between man and man demands. Lawyers recognize and appreciate this fact and are more than satisfied if by a settlement they speedily and inexpensively secure for their clients their *substantial* rights. And clients appreciate the relief from worry and uncertainty as well as the result and are willing to pay liberally the lawyer who keeps them "out of court."

Finally, none recognize more clearly or appreciate more fully the all-round saving which results than the general public, which has to foot the bill for court expenses.

No matter what other judges may do, say or think with reference to the matter, I shall continue in my efforts to do good as light is given me to see it; I sincerely believe that I have the approval of my constituents, and know that I have the confidence, more, the friendship of my bar.